



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
TTY 711 or 800-833-6388 (For the Speech or Hearing Impaired)

January 3, 2005

The Honorable Gary Locke
Governor of Washington
Post Office Box 4002
Olympia, Washington 98504-0002

Dear Governor Locke:

Enclosed, please find Ecology's recommended draft rule language on persistent bioaccumulative toxins (PBTs) in response to Executive Order # 04-01 on Persistent Toxic Chemicals. Among the directives in the EO, Ecology was asked to:

"...establish, through rule, specific criteria for use in identifying persistent, toxic chemicals that pose human health or environmental impacts in Washington State, and a clear process for developing chemical action plans to address those impacts"

Your office provided \$50,000 in emergency funding to jump start this rule development process.

The 2004 Supplemental Budget proviso passed by the Legislature provided additional funding (\$83,000) and some additional requirements for drafting the PBT rule. The language in the Supplemental Budget also specified that:

"The department shall develop the criteria and list consistent with the administrative procedure act provided under chapter 34.05 RCW and shall not adopt the rule prior to the adjournment of the 2005 legislative session."

Ecology followed the scope as outlined in the Executive Order and the budget proviso as we developed the draft PBT Rule. In addition, several months ago, Ecology created an external PBT Rule Advisory Committee to assist us with the writing of the draft PBT Rule language. This committee consisted of representatives from industry, agriculture, environmental and community organizations, local government, public health, and academic interests. Representatives from the Departments of Agriculture, Health, Labor & Industries and EPA Region 10 also participated in the advisory committee process.

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Ecology held six all-day advisory committee meetings between August and December of this year. Each meeting was facilitated by a contracted neutral facilitator.

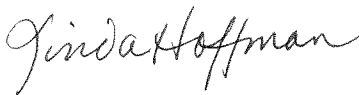
Ecology worked with this broad-based advisory committee throughout the draft rule development process and incorporated many of their recommendations, although there is not agreement on all recommendations from the committee in the draft rule. Key points in the draft PBT Rule include:

- a) Criteria Ecology will use to identify persistent bioaccumulative toxins that pose human health or environmental impacts in Washington State;
- b) A list of 26 PBT chemicals or chemical groups;
- c) Procedures Ecology will follow to review and periodically update the list;
- d) Criteria for selecting persistent bioaccumulative toxins for which Ecology will prepare chemical action plans; and
- e) An outline of the scope and content of chemical action plans and the process Ecology will use to develop and implement those plans.

Ecology plans to start formal rulemaking during the spring of 2005 and finalize the PBT Rule in the summer of 2005 since the budget proviso directed Ecology not to adopt the rule prior to the adjournment of the 2005 legislative session. The progress we made with stakeholders on this draft rule language will help in making the formal rule adoption process more expeditious and more widely supported.

I appreciate your leadership and support in protection of public health and the environment.

Sincerely,



Linda Hoffman
Director

Enclosure: Draft PBT Rule Language (Chapter 173-333 WAC)

cc: Ron Shultz, Office of the Governor - Environmental Affairs Director
Greg Sorlie, Ecology - Special Assistant for Regulatory Improvement
Ted Sturdevant, Ecology - Governmental Relations Director
Mike Gallagher, Ecology - PBT Coordinator
PBT Rule Advisory Committee members